



STATE OF INDIANA

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Re: Complaint 26-FC-030
Moeasha Berry (Complainant) v.
Cumberland Police Department (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed January 14, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on March 3, 2026, requesting a formal response by March 30, 2026. A formal response, submitted by Chou-il Lee of Taft Stettinius & Hollister LLP on behalf of Respondent, was received in this office on March 30, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by declining to produce records in excess of what is permitted by the investigatory exception found in IC 5-14-3-4(b)(1).

ANALYSIS

On January 5, 2026, the Complainant requested information pursuant to APRA related to a police report. On January 12, 2026, the records request was denied with the Respondent citing IC 5-14-3-4(b)(1) and indicating that it was in the interest of public safety for the Respondent to withhold the records under the investigatory exception.

The public policy of APRA states that “[p]roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(s). As a result, unless an exception applies, any person has the right to inspect and copy Respondent’s public records during regular business hours. IC 5-14-3-3(a).

Respondent is also a law enforcement agency for purposes of the investigatory records exception. IC 5-14-3-2(s)(6). APRA defines “investigatory record” as “information compiled in the course of the investigation of a crime.” IC 5-14-3-2(i). In other words, APRA speaks to information gathered, accumulated or prepared in or during the investigation of a crime. The burden is on the public agency to base a denial of public disclosure with specificity and not by relying on a conclusory statement. IC 5-14-3-9(g)(1)(B).

The complaint does not raise issues with whether or not the Respondent properly responded to the request in a timely manner, and neither the Complainant nor Respondent suggest that the records requested were anything but public records. Respondent in its response stated that Complainant was denied a copy of the case file because Respondent deemed it an investigatory record pursuant to IC 5-14-3-4(b)(1), which provides that

Except as otherwise provided by subsection (a) the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies...

Respondent has discretion to release or not release the records by statute. The investigatory records exception does not apply to only current investigations. The Indiana Court of Appeals has ruled that “...APRA does not limit the definition of investigatory records to those that will interfere with active law enforcement proceedings.” *Lane-El v. Spears*, 13 N.E. 3d 859, 872. (Ind. Ct. App. 2014). The Court went on to say that “We will not contravene the Legislature’s intent in creating an explicit exception to the APRA by limiting investigatory records to records of active investigations.” *Id.*

Therefore, the exception as claimed by Respondent is clearly within its discretion and applies even after the investigation into the matter has been closed.

APRA provides that:

If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

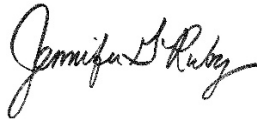
IC 5-14-3-9(d). The Respondent has properly denied the request using the investigatory records exception IC 5-14-3-4(b)(1).

Complainant may want to also review IC 5-14-3-9(e) which states:

A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record.

CONCLUSION

This office finds that the Respondent did not violate the APRA as alleged in the complaint.



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